

**THE PUBLIC INTEREST LEGAL
FOUNDATION,**

Plaintiff,

V.

**ROBERT TORRES, in his official
Capacity as Acting Secretary of the
Commonwealth of Pennsylvania, and
JONATHAN M. MARKS, in his official
Capacity as the Commissioner of the
Bureau of Commissions, Elections and
Legislation,**

Defendants.

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NO. 1:18-CV-00463

CHIEF JUDGE CONNER

ELECTRONICALLY FILED

**DEFENDANTS' MOTION TO DISMISS
PURSUANT TO FED. R. CIV. P. 12(b)**

Defendants Robert Torres, Acting Secretary of the Commonwealth of Pennsylvania, and Jonathan M. Marks, Commissioner of the Bureau of Commissions, Elections and Legislation, by and through their undersigned counsel, hereby move to dismiss Plaintiff's Complaint pursuant to Rule 12(b)(1) and (6) of the Federal Rules of Civil Procedure. In support of this Motion, Messrs.

Torres and Marks rely on their supporting memorandum of law which will be filed within 14 days pursuant to Rule 7.5 of the Local Rules of Court.

Respectfully submitted,

/s/ Daniel T. Brier

Daniel T. Brier

Donna A. Walsh

Counsel for Defendants,

Robert Torres and Jonathan M. Marks

Myers, Brier & Kelly, LLP
425 Spruce Street, Suite 200
Scranton, PA 18503
(570) 342-6100

Dated: March 21, 2018

CERTIFICATE OF NONCONCURRENCE

I, Daniel T. Brier, hereby certify that I sought the concurrence of counsel for Plaintiff, Linda A. Kerns, Esquire, in this Motion. Ms. Kerns does not concur.

/s/ Daniel T. Brier

Date: March 21, 2018

CERTIFICATE OF SERVICE

I, Daniel T. Brier, hereby certify that a true and correct copy of the foregoing Motion To Dismiss was served upon the following counsel of record via the Court's ECF system on this 21st day of March, 2018:

J. Christian Adams, Esquire
Noah H. Johnson, Esquire
Public Interest Legal Foundation
32E Washington Street
Suite 1675
Indianapolis, IN 46204

Linda A. Kerns, Esquire
Law Offices of Linda A. Kerns, LLC
1420 Locust Street, Suite 200
Philadelphia, PA 19102

/s/ Daniel T. Brier